

REMARKS

Applicant has reviewed and considered the Office Action mailed on August 22, 2007, and the references cited therein.

Claims 1, 12, 18, and 22 are amended; claims 5-7, 9-11, 14-15, 21, and 24-25 are canceled; and claims 27-37 are added herein. As a result, claims 1-4, 8, 12-13, 16-20, 22-23, and 26-37 are now pending in this application.

35 USC § 102 Rejection of the Claims

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claims 1-21 were rejected under 35 USC § 102(e) as being anticipated by *Chuah et al.* (US Publication 2005/0059396 A1) (hereinafter Chuah).

Claim 1 is directed to a method comprising: (a) determining, at a base station in a wireless network, whether quality of service (QOS) can be improved for a group of wireless client devices being serviced by said base station by moving at least one wireless client device in said group to another available channel, wherein said base station includes at least a first wireless transceiver following a first wireless standard and a second wireless transceiver following a second wireless standard; and (b) moving said at least one wireless client device to said another available channel when it is determined that QOS can be improved; wherein determining includes determining whether a wireless client device having a low quality signal is sharing said first wireless transceiver with a wireless client device having a high quality signal and, when a wireless client device having a low quality signal is sharing said first wireless transceiver with a wireless client device having a high quality signal, concluding that QOS can be improved by moving said wireless client device having a low quality signal to said second wireless transceiver.

Chuah does not disclose or suggest “determining, at a base station in a wireless network, whether quality of service (QOS) can be improved for a group of wireless client devices being

served by said base station by moving at least one wireless client device in said group to another available channel.” Chuah also does not disclose or suggest “wherein determining includes determining whether a wireless client device having a low quality signal is sharing said first wireless transceiver with a wireless client device having a high quality signal and, when a wireless client device having a low quality signal is sharing said first wireless transceiver with a wireless client device having a high quality signal, concluding that QOS can be improved by moving said wireless client device having a low quality signal to said second wireless transceiver.”

Based on the foregoing, it is submitted that claim 1 is not anticipated by Chuah. Reconsideration and allowance of claim 1 is therefore respectfully requested. A similar argument applies to independent claim 18.

Claim 12 is an independent claim directed to an apparatus comprising: (a) a first wireless transceiver configured in accordance with a first wireless standard to operate within a first channel; (b) a second wireless transceiver configured in accordance with a second wireless standard to operate within a second channel, wherein said second channel is different from said first channel; and (c) a controller to move a remote wireless client device from said first channel to said second channel when it is determined that such a move can improve an overall quality of service being provided by said apparatus, wherein said controller determines that moving a remote wireless client device from said first channel to said second channel can improve the overall quality of service being provided by said apparatus when said remote wireless client device has a low quality signal and is sharing said first wireless transceiver with at least one other wireless client device that has a high quality signal.

Chuah does not disclose or suggest “a controller to move a remote wireless client device from said first channel to said second channel when it is determined that such a move can improve an overall quality of service being provided by said apparatus, wherein said controller determines that moving a remote wireless client device from said first channel to said second channel can improve the overall quality of service being provided by said apparatus when said remote wireless client device has a low quality signal and is sharing said first wireless transceiver with at least one other wireless client device that has a high quality signal.”

Based on the foregoing, it is submitted that claim 12 is not anticipated by Chuah. Reconsideration and allowance of claim 12 is therefore respectfully requested.

Claims 2-4 and 8, claims 13 and 16-17, and claims 19-20 are dependent claims that depend either directly or indirectly from independent claims 1, 12, and 18, respectively. Consequently, these claims are allowable for at least the same reasons as their corresponding base claims.

Claims 5-7, 9-11, 14-15, and 21 have been cancelled herein without prejudice.

35 USC § 103 Rejection of the Claims

Claims 22-26 were rejected under 35 USC § 103(a) as being unpatentable over Chuah and further in view of *Fox et al.* (US Patent 6,879,807).

Claim 22 should be allowable for at least the same reasons as independent claim 12 discussed above.

Claims 23 and 26 are dependent claims that each depend directly from independent claim 22. Consequently, these claims are allowable for at least the same reasons as claim 22.

Claims 24-25 have been cancelled herein without prejudice.

Support for the amendments made to independent claims 1, 12, 18, and 22 can be found at, for example, page 5, line 29 to page 7, line 19 of the specification as filed. No new matter has been added.

New Claims

New dependent claims 27-37 have been added. These claims have support in the specification-as-filed at, for example, page 5, line 29 to page 7, line 19. These claims are allowable based on their dependency from allowable base claims. The claims also provide further bases for patentability. For example, claim 27 further defines the “first wireless standard” of claim 1 as being a standard that achieves better throughput than the second wireless standard and further defines the “second wireless standard” of claim 1 as being a standard that achieves better range than the first wireless standard. As recited in claim 1, the first wireless standard is the standard followed by the first wireless transceiver from which the wireless client device having a low quality signal is moved. The second wireless standard is the standard

followed by the second wireless transceiver to which the wireless client device having a low quality signal is moved. Chuah does not disclose or suggest moving a wireless client device having a low quality signal from a wireless transceiver that achieves better throughput to a wireless transceiver that achieves better range. A similar argument applies to new claims 30, 33, and 36. Claim 28 further defines the “first wireless standard” of claim 1 as being the IEEE 802.11a standard and further defines the “second wireless standard” of claim 1 as being the IEEE 802.11b,g standard. Chuah does not disclose or suggest moving a wireless client device having a low quality signal from a wireless transceiver following IEEE 802.11a to a wireless transceiver following IEEE 802.11b,g to improve quality of service. A similar argument applies to new claims 31, 34, and 37. Claim 29 recites that the signal quality of a wireless client device in the apparatus of claim 1 is determined based upon a data rate requested by the wireless client device. Chuah does not disclose or suggest using the data rate requested by a wireless client device as an indicator of signal quality for purposes of determining whether to move a wireless client device to another wireless transceiver to improve quality of service.

The present office action relies upon at least one 35 USC § 102(a) or 35 USC § 102(e) reference. Please note that no part of the present response is to be deemed an admission that these references are valid prior art in the present application. As such, the Applicants reserve the right to swear behind these references at a later date.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (480-948-3745) to facilitate prosecution of this application.

Respectfully submitted,

GREG A. PEEK

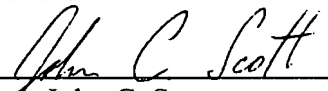
By his Representatives,

CUSTOMER NUMBER: 45643

480-948-3745


Date: November 21, 2007

By



John C. Scott
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 21st day of November, 2007.



Shellie Bailey